IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2019

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(PD) No.818 of 2017
and C.M.P.Nos.4026 of 2017 & 7832 of 2018

Sreerangan ... Petitioner

Vs.

1. Ravanan

2. Muthaiah ... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 01.02.2017 made in I.A.No.66 of 2017 in O.S.No.360 of 2016 on the file of the Additional District Munsif, Namakkal.

For Petitioner : Mr.S.Parthasarathy, Senior Counsel for M/s.N.Ponraj

For Respondents : Mr.S.Suresh Kumar

- - - - -

WEB COPY

http://www.judis.nic.in

O R D E R

The instant Civil Revision Petition has been filed as against the order of the trial Court rejecting an application in I.A.No.66 of 2017 in O.S.No.360 of 2016 filed under Order VII Rule 11 of C.P.C., dated 01.02.2017 on the ground that there was no cause of action.

2. The suit has been filed for declaration and other consequential reliefs. The case of the plaintiff is that since the first defendant sold the property in favour of the plaintiff's father on 16.11.1981 and after such purchase, the plaintiff's father was in possession of the property, the defendants have no right in the property. The petitioner/first defendant has filed I.A.No.66 of 2017 to reject the suit on the ground that it does not reflect any cause of action, but, the same has been rejected by the trial Court, against which, the present revision is filed.

WEB COPY

3. Heard the learned Senior Counsel appearing for the revision petitioner and the learned counsel appearing for the respondents and perused the records placed before this Court.

http://www.judis.nic.in

4. The contention of the learned Senior Counsel appearing for the revision petitioner is that the plaint document shows that the plaintiff has no right in the property and therefore, the suit has to be rejected.

5. At this stage, the contention of the learned Senior Counsel appearing for the revision petitioner cannot be countenanced for the simple reason that the application itself has been rejected on the ground that there is no cause of action and based on the allegation found in the plaint. In the plaint, various facts have been pleaded including oral partition. All these allegations are matter of evidence. Therefore, once the property is sold, it cannot be said that there is no cause of action.

सत्यमेव जयते

6. Hence, I am of the view that the order of the trial Court does not require any interference. It is for the revision petitioner to take all the defence in the trial by filing a written statement and establish his rights. Therefore, the Civil Revision Petition is dismissed. The revision petitioner is directed to file his written statement within one month from

WEB COPY

http://www.judis.nic.in

the date of receipt of a copy of this order and the trial Court is directed to dispose of the suit within eight months thereafter. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

27.02.2019

asi

To

The Additional District Munsif,
Namakkal.

WEB COPY

http://www.judis.nic.in

N. SATHISH KUMAR, J.

asi

HIGH COURT OF JUDICATURE MADRAS
सत्यमेव जयते
WEB COPY

C.R.P.(PD) No.818 of 2017 and
C.M.P.Nos.4026 of 2017 & 7832 of 2018

27.02.2019

http://www.judis.nic.in